

अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G., Accountant Member

आयकर अपील सं./I.T.A. Nos.769, 771 & 772/Chny/2023
निर्धारण वर्ष/Assessment Years: 2012-13, 2014-15 & 2015-16

Varathsingh Jai Singh,
128, 5th Street, Cross Cut Road,
Gandhipuram, Coimbatore 641 012.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle I,
Coimbatore.

[PAN: AKHPJ5413H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri V. Nandakumar, CIT
सुनवाई की तारीख/ Date of hearing : 02.01.2024
घोषणा की तारीख /Date of Pronouncement : 02.01.2024

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

These three appeals filed by the assessee are directed against separate the orders of the Id. Commissioner of Income Tax (Appeals) 16, Chennai, all dated 30.03.2023 relevant to the assessment years 2012-13, 2014-15 and 2015-16.

2. The appeals filed by the assessee are delayed by 30 days in filing the appeal, for which, the assessee has filed petitions for condonation of the delay in support of an affidavit, to which; the Id. DR has not raised any

serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay in filing of the appeal stands condoned and the appeals are admitted for adjudication.

3. Brief facts of the case are that the assessee, Shri Jai Singh, is a trader in photo frames and owns a shop in the name of M/s. Raj Marketing at No.28, 5th street, Cross Cut Road, Gandhipuram, Coimbatore, On 24.02.2015, information was received by Income Tax Officer (investigation), Coimbatore from the police that Shri Kan Singh, was found in possession of ₹.35,00,000/- during a routine vehicle check and he was unable to provide any explanation or document for the same. On enquiry, it was found that Shri Kan Singh was employee of Shri Jai Singh. As per statement recorded under section 131(1) of the Income Tax Act, 1961 ["Act" in short], Shri Kan Singh deposed that as per the directions of his employer, he carried the money and hence any explanation about the cash and its purpose can only be obtained from Shri Jai Singh. A requisition under section 132A of Act dated 25.02.2015 issued by the Principal Director of Income Tax (Inv.) Chennai was served on Inspector of Police, B-3, Kattur Police Station and the case of ₹.35,00,000/- was requisitioned by way of recording the proceedings under section 132A of the Act. The Assessing Officer issued summon

under section 131(1) of the Act dated 25.05.2015 and served on Shri Jai Singh and a sworn statement was recorded from him. As a result of the proceedings under section 132A of the Act, the total undisclosed income earned by the assessee during the financial year 2011-12 to 2013-14 was arrived at ₹.35 lakhs and the year wise break up is as under:

Fin. Year	Undisclosed income (cash seized)
2013-14	₹.15 lakhs
2012-13	₹.10 lakhs
2011-12	₹.10 lakhs
Total	₹.35 lakhs

Subsequently, the Assessing Officer issued notice under section 153A of the Act on 05.05.2015 requiring assessee to file the return of income and the same was served on the assessee on 14.05.2015. In response to the above notice, the assessee has manually filed the return of income for AY: 2012-13 before ITO, Non Corporate Ward 1(3), Coimbatore on 18.05.2015 in which the assessee admitted income of ₹.12,88,469/-. The Assessing Officer has noted that the assessee had not paid self assessment tax of ₹.3,43,975/-, while filing the return of income and as the same was defective, the assessee was asked to rectify the defect. In response, the assessee filed return of income under section 153A of the Act declaring ₹.2,09,280/- on 20.08.2015, the same amount which was originally declared by him vide his return of income on 16.10.2012. After considering the submissions of the assessee as well as relying on the

sworn statement recorded from the assessee after due verification of books of accounts, the Assessing officer has concluded the assessment proceedings under section 143(3) r.w.s. 153A of the Act dated 29.06.2016 for the assessment year 2012-13 by assessing total income of the assessee at ₹.22,78,192/- after making various additions.

4. Similarly, for the assessment for the AY 2014-15, the Assessing officer has completed the assessment under section 143(3) r.w.s. 153A of the Act dated 30.06.2016 by assessing Officer total income of the assessee at ₹.27,22,552/- after making various additions. For AY 2015-16, the assessment was completed under section 143(3) r.w.s. 153A of the Act dated 27.12.2016 by assessing total income at ₹.1,19,74,830/- after making various additions.

5. The assessee carried the matter in appeal before the Id. CIT(A) and filed the appeals for AY 2012-13 and 2014-15 on 29.07.2016 and for AY 2015-16 on 11.01.2017. After considering the submissions of the assessee, the Id. CIT(A) completed the appellate order by partly allowing the appeals of the assessee.

6. On being aggrieved, the assessee is in appeal before the Tribunal for all the three assessment years. The Id. Counsel for the assessee has

submitted that the assessee filed the written submissions on 17.11.2018 and the Id. CIT(A) has concluded the appellate order after five years. It was further submission that there is an huge gap between the written submissions filed by the assessee and the appellate orders passed by the Id. CIT(A). It was, therefore, submitted that in view of various judgements of various Courts, the assessee may be given an opportunity to substantiate his case before the Id. CIT(A) and prayed that the matter may be remitted back for fresh consideration.

7. On the other hand, the Id. DR supported the orders of the Id. CIT(A).

8. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 153A of the Act for AY 2012-13 on 29.06.2016, for AY 2014-15 on 30.06.2016 and for AY 2015-16 on 27.12.2016. Against the assessment orders, the assessee preferred appeals before the Id. CIT(A) for AY 2012-13 and 2014-15 on 29.07.2016 and for AY 2015-16 on 11.01.2017. In support of the grounds of appeal, the assessee filed written submissions on 17.11.2018 for all the above assessment years. However, the Id. CIT(A) has concluded the appellate orders on 30.03.2023 for the above

assessment years based on the written submissions filed by the assessee on 17.11.2018, after a period of more than four years, without affording any opportunity of being heard to the assessee to explain its case. Thus, in the interest of natural justices, we are of the opinion that the assessee shall be afforded one more opportunity to substantiate his case before the Id. CIT(A). Accordingly, we set aside the appellate orders and remit the matter back to the file of the Id. CIT(A) for fresh adjudication in accordance with law after affording reasonable opportunity of being heard to the assessee.

9. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 02nd January, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 02.01.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.